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OWEN DIAZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OWEN DIAZ,
Plaintiff,
v.
TESLA, INC. dba TESLA MOTORS, INC.;
Defendant.

Case No. 3:17-cv-06748-WHO

**DECLARATION OF BRIAN
MATHIAS IN SUPPORT OF
PLAINTIFF'S MOTION FOR
ATTORNEY'S FEES**

Trial Date: March 27, 2023
Complaint filed: October 16, 2017

1 I, Brian Mathias, declare as follows:

2 1. I am over the age of eighteen, and if called, could testify competently as to the
3 contents of this declaration. I am a member in good standing of the Bar of the State of California.

4 2. I graduated early and third in my class from the Monterey College of Law in Seaside,
5 California in January, 2012.

6 3. Following my graduation and while working as a full-time plaintiff's attorney, I was
7 also employed as an assistant professor of Constitutional Law at the Monterey College of Law from
8 August 2013 to August 2016. Among my responsibilities was tutoring students in the subject of
9 constitutional law and helping them pass their exams. I am still involved with the Monterey College
10 of Law but now as a mentor for its First Generation Law School Mentorship Program, which
11 includes mentoring participants in the subject of employment law.

12 4. In mid-2009 I joined the Law Offices of Timothy J. Morgan in Santa Cruz,
13 California, first as an intern, and then a law clerk and then paralegal. After becoming licensed as an
14 attorney in May, 2012, I continued as an associate-level attorney handling a wide range of civil
15 litigation, probate, transaction law, real estate, and other matters.

16 5. In mid-March 2014, I joined the Law Offices of Kenneth J. Kroopf, located in
17 Monterey, California as a full-time, associate-level attorney. Approximately 70% of my time in that
18 office was spent working in employment law litigation, the remaining 30% was spent working on
19 plaintiff-side personal injury cases. Nearly one hundred percent of my efforts were spent on matters
20 that were in litigation or about to be in litigation. I gained substantial experience in the area of
21 employment law during this time, including the handling of employment law matters from the point
22 of initial client contact all the way through judgement, appeal, and collection.

23 6. While I was employed full-time at the Law Office of Kenneth J. Kroopf in the years
24 2014 and 2015, I would occasionally represent employees on an hourly rate basis and rather than on
25 a contingent basis, such as reviewing employment contracts and severance agreements. In my first
26 month on the job as a full-time employment law attorney, and in only my second year of becoming
27 licensed, my employer billed my time at the rate of \$295.00 per hour. This was over eight years ago,
28

1 and value of my services has certainly substantially increased since then as I have gained much more
2 experience.

3 7. In February of 2016 I founded the Law Office of Brian Mathias in Aptos, California.
4 Until mid-2017, employment law litigation made up a total of eighty-five percent of my time and
5 practice area. After mid-2017 and for the last six years, nearly one hundred percent of my work time
6 and efforts have been focused on exclusively representing employees in contingency-based
7 employment law matters. This includes the representation of employees in California Fair
8 Employment and Housing Act cases, but also in retaliation cases, and individual and class-action
9 wage-and-hour lawsuits. I have represented my employment law clients both at trial and at
10 arbitration.

11 8. I regularly provide training to other attorneys, including workers' compensation
12 attorneys on the subject of identifying retaliation, discrimination, and wage-and-hour issues in
13 workers' compensation cases. These trainings include, "Raise Your Hand! 25 Practical Tips for the
14 Applicant's Attorney Facing Disability Discrimination in Employment", "Raise Your Hand Part II:
15 Tips for the Applicants' Attorney Facing Disability Discrimination and Wage and Hour issues", and
16 the presentation, "There's a FEHA in my Comp Case!!!" These trainings include one which has been
17 certified by the California State Bar for legal specialist continuing education credit in the field of
18 workers' compensation.

19 9. I have also had the distinction of co-presenting a continuing education seminar
20 through Trial Lawyers University, an intensive litigation and trial-skills program, in July, 2022. At
21 this seminar I taught advanced level employment law, litigation, and trial techniques to
22 approximately one-hundred other trial attorneys from multiple states.

23 10. Since opening my practice in 2016, I have authored dozens of articles on almost all
24 facets of employment law. These articles are published online and, through the use of website
25 analytics, I know are viewed by hundreds of people at each publication. I am contacted by lawyers
26 and clients across the California for assistance in plaintiff-side employment law matters specifically
27 because of these publications and my expertise in employment law.
28

1 11. Over the course of my practice, I have reviewed hundreds of potential employment
2 cases and represented individuals in single plaintiff and multiple plaintiff employment cases, and I
3 have recovered millions of dollars on behalf of plaintiffs in employment cases. Other plaintiff
4 attorneys refer cases to me frequently because of my reputation and expertise, including within the
5 County of Santa Cruz.

6 12. I am familiar with the rates charged by attorneys of comparable skill, expertise, and
7 experience throughout the Bay Area and Northern California generally. I have worked with dozens
8 of local attorneys, and I am familiar with the rates charged by other employment lawyers like Messrs.
9 Collier, Socks, Teti, and Ms. Malay.

10 13. I have spent thousands of hours between late 2017 and the present working
11 alongside Mr. Collier and Mr. Sock on different employment discrimination cases from intake all the
12 way through jury trial and appeal. Mr. Collier and Mr. Socks are the most skilled lawyers at cross
13 examination and legal writing that I have ever seen. I have likewise spent hundreds of hours working
14 with attorneys Drew Teti and Elizabeth Malay whom I have worked with since approximately
15 October, 2021, also as co-counsel together with Mr. Collier and Mr. Socks. I can say without
16 hesitation that the four of them are truly an exceptionally skilled and talented team of lawyers,
17 especially in the niche area of employment law.

18 14. My experience with these four lawyers includes the case of *Ruvalcaba vs. Santa Cruz*
19 *City Schools, et al.*, (Santa Cruz Superior Court Case No. 19CV00488) which we have co-counseled on
20 for multiple years. That jury verdict is believed to have been the largest jury verdict in Santa Cruz,
21 Monterey, and San Benito Counties. Trial in that case concluded over a year-and-a-half ago in May
22 of 2022 and Messrs. Collier, Socks, Teti, and Malay were awarded \$700, \$650, \$500, and \$350
23 respectively, which was well deserved by virtue of their skill and records. I can say without
24 hesitation therefore, that the requested rates in this current matter (Dustin L. Collier - \$750; V.
25 Joshua Socks - \$700; Drew F. Teti - \$550; Elizabeth R. Malay - \$400) are entirely justified and
26 comparable with other attorneys of similar skill and experience. The lapse of time between the
27 underlying work performed in the *Ruvalcaba* matter and the *Diaz* matter, the increase in market rates
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1 for employment law attorneys, as well as the increase in Messrs. Collier, Socks, Teti, and Malay's
2 skillsets more than justify the \$50.00 per hour increase.

3 15. As a solo practitioner, representing plaintiffs in employment law cases is extremely
4 risky due to costs and the investment of time and other resources and because the final outcome,
5 win or lose, lay only with a few people. Virtually no one can afford to pay for skilled legal
6 representation in civil rights litigation on an hourly basis, so plaintiff civil rights attorneys represent
7 virtually all discrimination claims on a contingency fee basis. Thus, civil rights attorneys like myself
8 are not compensated unless they prevail at trial or successfully settle. Because they are taking on the
9 risk that they will not be reimbursed for their time unless their client settles or wins their case,
10 plaintiff civil rights attorneys typically cannot afford to represent an individual employee on a
11 contingency basis if, at the end of their representation, all they recover is the standard hourly rate
12 for their services if they win—or nothing if they lose. Moreover, the delay in payment itself, even
13 on a successful case, can and does impose serious financial risk and great financial challenges on
14 contingent-based employment law attorneys.

15 16. Given the forgoing, the rates requested here for the Collier Law Firm are absolutely
16 reasonable.

17
18 I declare, under penalty of perjury under the laws of the State of California, that the
19 foregoing is true and correct. Executed this 15th day of October, 2023, at Aptos, California.
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23 _____
24 Brian C. Mathias
25 Attorney at Law
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